

FILED  
IN CLERKS OFFICE

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
(EASTERN DIVISION)

2005 MAR 11 P 1:43

JUSTIN COOK	)	U.S. DISTRICT COURT DISTRICT OF MASS.
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-CV-10443-JLT
	)	
	)	
CRUISECOMPETE, LLC,	)	
HEIDI ALLISON-GARRETT,	)	
ERIC BUSICK, and	)	
ROBERT A. LEVINSTEIN	)	
Defendants.	)	
	)	

**AFFIDAVIT OF ROBERT A. LEVINSTEIN IN SUPPORT OF DEFENDANTS'  
MOTION TO DISMISS, OR IN THE ALTERNATIVE TO TRANSFER VENUE**

I, Robert A. Levinstein, being duly sworn, do hereby depose and state:

1. I am a defendant in the above-captioned matter, am above the age of twenty-one, am competent to testify, and have personal knowledge of the facts herein. To those facts that I do not have personal knowledge I allege such facts on information and belief, and as to such facts believe them to be true.
2. I am a member and managing member of CruiseCompete, LLC, an Iowa limited liability company organized under the laws of Iowa and with its principal place of business located at 673 61<sup>st</sup> Street, Des Moines, Iowa. I am a resident and citizen of the State of Iowa. Contrary to the allegations made by Mr. Cook in his Verified Complaint, CruiseCompete, LLC does not have an office in Massachusetts.
3. CruiseCompete, LLC is a start-up internet venture operating a website ([www.cruisecompete.com](http://www.cruisecompete.com)) that connects consumers searching for cruises to CruiseCompete's customers who are cruise operators and travel agents.
4. In the late summer or early fall of 2003, I spoke with Tim Cutler, Esquire by telephone. He was retained by CruiseCompete to review the Operating Agreement of CruiseCompete which is attached to the Verified Complaint as Exhibit 2, with all of its members. We discussed that Article 10.4 of Operating Agreement was intended to establish Iowa as the exclusive location of any dispute between the members and that Iowa law would control such disputes.

5. In all of my discussions with all of the other members of CruiseCompete prior to entering into the Operating Agreement, including a telephone conference with Mr. Cook, it was always understood, agreed and intended that Article 10.4 of Operating Agreement was intended to establish Iowa as the exclusive location of any dispute between the members and that Iowa law would control such disputes.
6. Having to travel to Massachusetts to participate in a litigation there will be unnecessarily expensive and work a financial hardship upon me.

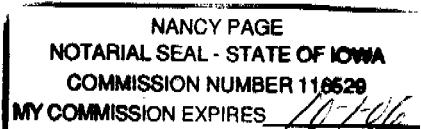
SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 3<sup>rd</sup> DAY OF MARCH 2005.

  
ROBERT A. LEVINSTEIN

Before me, the undersigned authority, personally came and appeared the affiant, Robert A. Levinstein, who, being first duly sworn upon oath, stated that he has read the above and foregoing document and knows the contents thereof, and that all statements of fact contained therein are true. Subscribed and sworn to before me, this 9<sup>th</sup> day of March, 2005.

  
NOTARY PUBLIC *Nancy Page Notary Public*  
Address of Notary: *606 Walnut - Des Moines IA 50309*

My Commission Expires: 10-1-06



*Notary Public State of Iowa  
Commissioner of Clerks and  
Secretary of State  
Nancy Page*